

House File 2401 - Introduced

HOUSE FILE 2401
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO HSB 687)

A BILL FOR

1 An Act relating to the disclosure of specified information in
2 connection with designated online marketplace transactions
3 and including effective date provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 554E.1 Definitions.

2 As used in this chapter, unless the context otherwise
3 requires:

4 1. "*Consumer product*" means goods that are used or bought
5 for use primarily for personal, family, or household purposes.

6 2. "*High-volume third-party seller*" means a participant on
7 an online marketplace platform who is a third-party seller
8 and who, in any continuous twelve-month period during the
9 previous twenty-four months, has entered into two hundred or
10 more discrete sales or transactions of new or unused consumer
11 products made through the online marketplace and for which
12 payment was processed by the online marketplace, either
13 directly or through its payment processor, and an aggregate
14 total of five thousand dollars or more in gross revenues.

15 3. "*Online marketplace*" means a person or entity that
16 operates a consumer-directed electronically based or accessed
17 platform as follows:

18 a. The platform includes features that allow for,
19 facilitate, or enable third-party sellers to engage in the
20 sale, purchase, payment, storage, shipping, or delivery of a
21 consumer product in the state.

22 b. The platform is used by one or more third-party sellers
23 for the purposes specified in paragraph "a".

24 c. The platform has a contractual or similar relationship
25 with consumers governing their use of the platform to purchase
26 consumer products.

27 4. "*Seller*" means a person who sells, offers to sell,
28 or contracts to sell a consumer product through an online
29 marketplace platform in the state.

30 5. "*Third-party seller*" means a seller, independent of an
31 online marketplace, who sells, offers to sell, or contracts
32 to sell a consumer product in the state through an online
33 marketplace platform. The term "*third-party seller*" does not
34 include, with respect to an online marketplace, the following:

35 a. A seller who operates an online marketplace platform.

1 **b.** A business entity that has made available to the general
2 public the entity's name, business address, and working contact
3 information; that has an ongoing contractual relationship with
4 the online marketplace to provide the online marketplace with
5 the manufacture, distribution, wholesaling, or fulfillment of
6 shipments of consumer products; and that has provided to the
7 online marketplace identifying information, as described in
8 section 554E.2, that has been verified in accordance with that
9 section.

10 **6.** "*Verify*" means to confirm information provided to
11 an online marketplace pursuant to this chapter, which may
12 include the use of one or more methods that enable the online
13 marketplace to reliably determine that any information and
14 documents provided are valid, corresponding to the seller or an
15 individual acting on the seller's behalf, not misappropriated,
16 and not falsified.

17 **Sec. 2. NEW SECTION. 554E.2 Collection of information.**

18 **1.** An online marketplace shall require any high-volume
19 third-party seller on an online marketplace platform to
20 provide, not later than ten days after qualifying as a
21 high-volume third-party seller on the platform, the following:

22 **a.** A bank account number, or, if such seller does not have a
23 bank account, the name of the payee for payments issued by the
24 online marketplace to such seller.

25 **b.** The seller's contact information.

26 **c.** A business tax identification number, or, if such seller
27 does not have a business tax identification number, a taxpayer
28 identification number. Any information contained in such
29 document shall be presumed to be verified as of the date of
30 issuance of such document.

31 **d.** A current working email address and phone number for such
32 seller.

33 **2.** The bank account or payee information required under this
34 section may be provided by the seller as follows:

35 **a.** To the online marketplace.

1 *b.* To a payment processor or other third party contracted by
2 the online marketplace to maintain such information, provided
3 that the online marketplace ensures that it can obtain such
4 information on demand from such payment processor or other
5 third party.

6 3. Acceptable forms of seller contact information include
7 the following:

8 *a.* With respect to a high-volume third-party seller that is
9 an individual, the individual's name.

10 *b.* With respect to a high-volume third-party seller that
11 is not an individual, one of the following forms of contact
12 information:

13 (1) A copy of a valid government-issued identification for
14 an individual acting on behalf of such seller that includes the
15 individual's name.

16 (2) A copy of a valid government-issued record or tax
17 document that includes the business name and physical address
18 of such seller. Any information contained in such document
19 shall be presumed to be verified as of the date of issuance of
20 such document.

21 4. An online marketplace shall verify the information
22 collected under this section not later than ten days after
23 collection.

24 Sec. 3. NEW SECTION. 554E.3 Information updates.

25 1. An online marketplace shall do the following:

26 *a.* Periodically, but not less than annually, notify a
27 high-volume third-party seller on an online marketplace
28 platform of the requirement to keep any information collected
29 under this chapter current.

30 *b.* Require a high-volume third-party seller on an online
31 marketplace platform to, not later than ten days after
32 receiving the notice under this section, electronically certify
33 that the following:

34 (1) That the seller has provided any changes to such
35 information to the online marketplace, if any such changes have

1 occurred.

2 (2) That there have been no changes to such seller's
3 information.

4 (3) That the seller has provided any changes to such
5 information to the online marketplace.

6 2. An online marketplace shall verify any change to such
7 information not later than ten days after being notified of the
8 change by a high-volume third-party seller under this section.

9 Sec. 4. NEW SECTION. 554E.4 **Suspension.**

10 In the event that a high-volume third-party seller does not
11 provide the information or certification required under this
12 chapter, the online marketplace shall, after providing the
13 seller with written or electronic notice and an opportunity
14 to provide such information or certification not later than
15 ten days after the issuance of such notice, suspend any future
16 sales activity of the seller until the seller provides such
17 information or certification.

18 Sec. 5. NEW SECTION. 554E.5 **Data collection.**

19 1. Data collected solely to comply with the requirements
20 of this section may not be used for any other purpose unless
21 required by law.

22 2. An online marketplace shall implement and maintain
23 reasonable security procedures and practices, including
24 administrative, physical, and technical safeguards, appropriate
25 to the nature of the data and the purposes for which the data
26 will be used, to protect the data collected to comply with the
27 requirements of this section from unauthorized use, disclosure,
28 access, destruction, or modification.

29 Sec. 6. NEW SECTION. 554E.6 **Disclosure requirements.**

30 1. An online marketplace shall do the following:

31 a. Require a high-volume third-party seller with an
32 aggregate total of twenty thousand dollars or more in annual
33 gross revenues on an online marketplace, and that uses an
34 online marketplace platform, to provide the information as
35 specified in subsection 2 to the online marketplace.

1 *b.* Disclose the information described in this section to
2 consumers in a clear and conspicuous manner, either on the
3 product listing page, including through hyperlink, or in the
4 order confirmation message or other document or communication
5 made to the consumer after the purchase is finalized and in the
6 consumer's account transaction history.

7 2. A high-volume third-party seller subject to this section
8 shall disclose the following:

9 *a.* The full name of the seller, which may include the
10 seller's name or seller's company name, or the name by which
11 the seller or company operates on the online marketplace.

12 *b.* The physical address of the seller.

13 *c.* Contact information for the seller, to allow for the
14 direct, unhindered communication with high-volume third-party
15 sellers by users of the online marketplace, including a current
16 working phone number, a current working email address, or other
17 means of direct electronic messaging which may be provided to
18 the seller by the online marketplace.

19 *d.* When a high-volume third-party seller uses a different
20 seller to supply the consumer product to the consumer upon
21 purchase, and upon the request of an authenticated purchaser,
22 the information described in this section relating to any such
23 seller that supplied the consumer product to the purchaser, if
24 the seller is different than the high-volume third-party seller
25 listed on the product listing prior to purchase.

26 3. An online marketplace shall disclose to consumers in
27 a clear and conspicuous manner on the product listing of the
28 high-volume third-party seller a reporting mechanism that
29 allows for electronic and telephonic reporting of suspicious
30 marketplace activity to the online marketplace.

31 4. If a high-volume third-party seller does not comply with
32 the requirements to provide and disclose information under this
33 section, the online marketplace shall, after providing the
34 seller with written or electronic notice and an opportunity to
35 provide or disclose such information not later than ten days

1 after the issuance of such notice, suspend any future sales
2 activity of the seller until the seller complies with the
3 requirements.

4 Sec. 7. NEW SECTION. **554E.7 Exceptions.**

5 1. Subject to section 554E.6, upon the request of a
6 high-volume third-party seller, an online marketplace may
7 provide for partial disclosure of the identity information
8 required under section 554E.6 as follows:

9 *a.* If the seller certifies to the online marketplace that
10 the seller does not have a business address and only has a
11 residential street address, or has a combined business and
12 residential address, the online marketplace may disclose only
13 the country and, if applicable, the state in which such seller
14 resides; and inform consumers that there is no business address
15 available for the seller and that consumer inquiries should
16 be submitted to the seller by phone, email, or other means of
17 electronic messaging provided to such seller by the online
18 marketplace.

19 *b.* If the seller certifies to the online marketplace
20 that the seller is a business that has a physical address
21 for product returns, the online marketplace may disclose the
22 seller's physical address for product returns.

23 *c.* If the seller certifies to the online marketplace that
24 the seller does not have a phone number other than a personal
25 phone number, the online marketplace shall inform consumers
26 that there is no phone number available for the seller and that
27 consumer inquiries should be submitted to the seller's email
28 address or other means of electronic messaging provided to such
29 seller by the online marketplace.

30 2. If an online marketplace becomes aware that a high-volume
31 third-party seller has made a false representation to the
32 online marketplace in order to justify the provision of a
33 partial disclosure under section 554E.6 or that a high-volume
34 third-party seller who has requested and received a provision
35 for a partial disclosure under section 554E.6 has not provided

1 responsive answers within a reasonable time frame to consumer
2 inquiries submitted to the seller by phone, email, or other
3 means of electronic messaging provided to such seller by
4 the online marketplace, the online marketplace shall, after
5 providing the seller with written or electronic notice and
6 the opportunity to respond not later than ten days after the
7 issuance of such notice, suspend any future sales activity of
8 such seller unless such seller consents to the disclosure of
9 the identity information required under section 554E.6.

10 Sec. 8. NEW SECTION. **554E.8 Enforcement — penalties.**

11 1. If the attorney general has reasonable belief that
12 an online marketplace is in violation of this chapter, the
13 attorney general may bring a civil action to provide for all
14 of the following:

15 a. Enjoin further violations by the online marketplace.

16 b. Enforce compliance with this chapter.

17 c. Assess civil penalties in an amount not more than one
18 hundred thousand dollars.

19 d. Obtain other remedies permitted under law.

20 e. Obtain damages, restitution, or other compensation on
21 behalf of residents of the state.

22 2. This chapter shall not be construed to prevent the state
23 from exercising the power to conduct investigations, administer
24 oaths or affirmations, or compel the attendance of witnesses or
25 the production of documentary and other evidence.

26 3. The attorney general may adopt rules as necessary to
27 implement this chapter.

28 Sec. 9. NEW SECTION. **554E.9 Severability.**

29 If any provision of this chapter or the application
30 thereof to any person or circumstances is held invalid, the
31 validity shall not affect other provisions or applications
32 of the chapter which can be given effect without the invalid
33 provisions or application and, to this end, the provisions of
34 this chapter are severable.

35 Sec. 10. **EFFECTIVE DATE.** This Act takes effect January 1,

1 2023.

2

EXPLANATION

3 The inclusion of this explanation does not constitute agreement with
4 the explanation's substance by the members of the general assembly.

5 This bill relates to high-volume third-party sellers
6 participating in an online marketplace.

7 The bill defines "online marketplace" to mean a person
8 or business that operates a consumer-directed electronic
9 platform that third-party sellers use to sell products to
10 consumers and has a contractually similar relationship with
11 consumers governing their use of the platform. The bill
12 defines "third-party seller" to mean any seller that is
13 independent of an online marketplace that sells, offers to
14 sell, or contracts to sell a consumer product in the state
15 through an online marketplace platform. Third-party sellers
16 do not include a seller that operates the online marketplace
17 platform or a business entity meeting specified requirements.
18 The bill defines a "high-volume third-party seller" to mean
19 a participant on an online marketplace platform that is a
20 third-party seller and for a continuous 12-month period within
21 the previous 24 months entered into 200 or more sales or
22 transactions of consumer products, made through the online
23 marketplace and for which payment was processed by the online
24 marketplace, with an aggregate total of \$5,000 or more in gross
25 revenue.

26 The bill provides that an online marketplace shall require
27 that a high-volume third-party seller disclose certain
28 information to the online marketplace, including bank account
29 information, a business or individual tax number, and email
30 address, phone number, and other contact information. The bill
31 requires that an online marketplace shall send a notification
32 to a high-volume third-party seller at least once per year
33 requesting updated information. The online marketplace
34 shall verify that the information the seller is providing
35 is correct. If a high-volume third-party seller fails to

1 provide the required information, the online marketplace shall
2 issue a notice to the seller, and upon the expiration of 10
3 days following the notice with no additional information
4 supplied, the online marketplace shall suspend the high-volume
5 third-party seller from additional sales until the information
6 is provided.

7 The bill provides that an online marketplace shall collect
8 data solely to comply with the requirements of the bill
9 and any applicable laws and that the data may not be used
10 for other purposes. An online marketplace shall maintain
11 security practices to protect data collected from a high-volume
12 third-party seller from unauthorized use, disclosure, access,
13 destruction, or modification.

14 The bill provides that a high-volume third-party seller with
15 a cumulative total of \$20,000 or more in annual gross revenues
16 on an online marketplace shall disclose specified information
17 to the online marketplace for the benefit of consumers.

18 High-volume third-party sellers shall disclose the full name
19 of the seller, the physical address of the seller, and contact
20 information. High-volume third-party sellers may use as a
21 name an individual natural person, the name of the company, or
22 the name by which the seller or company operates on the online
23 marketplace. High-volume third-party sellers shall provide
24 users of the online marketplace a current working phone number,
25 a current working email address, or other means of direct
26 electronic messaging to facilitate direct communication with
27 consumers. High-volume third-party seller contact information
28 shall be displayed in a conspicuous manner on an internet site
29 maintained by the seller. High-volume third-party sellers
30 using a different seller to supply the consumer products must
31 disclose contact information for a consumer upon purchase and
32 consumer request.

33 The bill provides that online marketplaces shall disclose a
34 reporting mechanism for consumers to use in sales or potential
35 sales involving suspicious marketplace activity.

1 The bill provides that high-volume third-party sellers may
2 request to have a partial disclosure of contact information
3 upon request to the online marketplace. False representations
4 relating to partial disclosure or failure of a seller who
5 obtained partial disclosure to communicate with consumers shall
6 be contacted by the online marketplace. The online marketplace
7 shall provide notice and shall suspend any future sales
8 activity of such seller unless such seller discloses additional
9 contact information.

10 The bill provides that the attorney general has authority
11 to enforce provisions of the bill and may bring a civil action
12 against an online marketplace operating in violation of the
13 provisions of the bill. A violation of the bill's provisions
14 is punishable by a civil penalty in an amount up to \$100,000.

15 The attorney general shall adopt rules as necessary to
16 implement the bill's provisions.

17 The bill takes effect January 1, 2023.